IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1891 OF 2006

Pawar Nilesh Sheshrao ..Petitioner

Vs.

The Competent Authority
& Director of Medical
Education and Research,
Govt. Dental College and
Anr. ..Respondents

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Mr.Anilkumar Patil Adv. for Petitioner
Mr.A.A.Kumbhakoni Associate Advocate General
with Mr.P.M.Mokashi AGP for Respondents

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CORAM: F.I.REBELLO AND
SMT.V.K.TAHILRAMANI,JJ.
DATE : JULY 28,2006

P.C.(PER SMT.V.K.TAHILRAMANI,J.):

1. The petitioner after appearing for HSC examination, appeared for CET-2006 conducted by the Respondent No.1 for admission to Medical and Engineering courses in the State of Maharashtra held in May, 2006. On 14.6.2006, the results were declared for CET-2006 and the petitioner was shown to have obtained 177 out of 200 marks for the PCB group. Not being satisfied with the marks obtained

in CET-2006, the petitioner represented to the Respondent No.1 for verification of his results and he received communication dated 17.6.2006 along with photo copy of his answer-sheet and key of his question paper along with responses. As per the petitioner, the question at Sr.No.156 (Biology Group) has been answered by darkening properly the option and he has not been given any marks for the same. Hence, this petition under Article 226 of the Constitution of India seeking directions against the Respondent No.1 to grant one additional mark for question No.156 so as to make the petitioner's score 178 out of 200 marks.

2. We have heard the learned counsel for the petitioner as well as learned Associate Advocate General. We have been informed that petitioner while answering question No.156, has marked in two columns out of four, when in fact, he was required to mark only in one column so as to get the correct answer. Out of the four options i.e. A,B,C & D, the petitioner has marked options 'C' in the normal manner and he has also marked option 'A' though not in the same fashion. This is obvious from the copy of the answer sheet annexed to the petition. In

view of this, computer has not considered the answer given to question No.156.

3. Admittedly, the examinees for CET-2006 were required to follow the instructions while answering the questions. They were told that they had to select only one option out of four options i.e. A,B,C & D by marking one option. They were clearly informed that marking on more than one options shall invalidate the answer. The petitioner claims that he did not mark twice nor did he mark on more than one option while answering question No.156. The answer-sheet of the petitioner belies this contention. The learned Associate Advocate General has also pointed out that from amongst students who answered the PCB group, 78,127 students marked only one option, whereas 24,579 students marked more than one option while answering one question out of 200 questions. Thus, in the category of the petitioner, there are 24,579 examinees and therefore, the learned Associate Advocate General was right in his contention that the petitioner's case is not in isolation. If the relief as prayed for by the petitioner is granted, another 24,578 students who are not before us, will be in fact,

eligible for the same benefit as the petitioner is praying for and thus, upset the admission process to the Health Science Courses. We have also been informed that for scanning of marks sensitivity of level four has been used while assessing the answer books for CET-2006. There are seven levels of sensitivity at which a scanner can work and level one has the highest sensitivity whereas level seven has the least sensitivity. As per the Respondent No.1, if level one is used which has the highest sensitivity i.e. it has the ability to pick lightest marks of minimal size e.g. half the size of pin-head, many candidates would lose marks because the scanner will pick up unintentional dots of smallest size and give them as multiple marked responses. On the contrary, If level seven is used for the purpose of scanning the student would again lose marks because many of them use ball-point pen with ink of variable darkness and often of blue colour though clear instructions are given not to do so and use only a black ball-point pen. In view of these facts, the experts have therefore, recommended an intermediate level of scanning i.e. L‘4’. Respondent No.1 had also done double scanning at an intermediate level. We are

therefore,satisfied that the mechanism used for assessing the answer-sheets, has been adopted as per experts advice at an intermediate level and due care has been taken for maintaining fairplay.

4. In a petition under Article 226, it is not permissible to substitute our view by setting aside the view based on experts opinion and this Court would be slow in interfering in academic evaluation/assessment. The relief prayed for by the petitioner cannot be granted and we do not agree with the petitioner that he did not mark his answer to question No.156 in more than one options.

5. Hence, petition fails and the same is hereby summarily rejected.

[F.I.REBELLO, J.]

[V.K.TAHILRAMANI,J.]